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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,601	09/29/2003	Yousuke Yoneda	1419.1061C	8535
21171	7590	01/22/2008		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER HYLINSKI, ALYSSA MARIE	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 01/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,601

Applicant(s)

YONEDA, YOUSUKE

Examiner

Alyssa M. Hylinski

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/13/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/07 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6, 7, 16, 21, 23-25, 27-31 and 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Minato (1-172894). Minato discloses a suspension for a running toy (page 1 paragraph 2) having first and second turning members (23,24), which turn first and second wheels (27,28) about first and second vertical shafts (23b, 24b) movably received by a chassis or frame member (20, 29) of the toy (Fig. 3). A member (34) connects the first and second turning members and forms a turning device (page 9 paragraph 2). A leaf spring (36) located on top of the chassis has side portions that contact upper portions of the first and second shafts as they project from the top of the chassis (Fig. 2) and subjects them to a downward

biasing force caused by elastically deforming the leaf spring (page 11 second paragraph). The suspension system is for a remote control toy car (page 1 paragraph 2). The leaf spring further comprises a projecting portion or shaft (37) formed at a middle portion thereof (Fig. 3) in order to attach the leaf spring within a cleft in the frame (Fig. 2). The cleft is formed by the hollow or unfilled space between protuberances or loops on the frame (Fig. 3). The shaft and leaf spring are formed as a unitary member (Fig. 3). The suspension system allows either wheel to move in a vertical direction while being biased by the biasing member or leaf spring (Fig. 4b).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato. Minato discloses the basic inventive concept, substantially as claimed with the exception, of the recess portion formed in an upper surface of the chassis. It would have been obvious to one of ordinary skill in the art to make the loops of Minato integral to the chassis so as to allow a recess portion to be in part formed in an upper surface thereof, since it has been held that a one piece construction is merely a matter of obvious engineering choice. *See in re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

6. Claims 8, 26, 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato and Perryman (GB 1095490). Minato discloses the basic inventive concept substantially as claimed with the exception of the leaf spring being made of metal or plastic. Perryman discloses a leaf spring used in the suspension system of a toy car made of plastic or steel (page 2 lines 122-129). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Perryman to use metal or plastic in a leaf spring since it is elastically deformable and usable as a biasing member. Furthermore, the mere selection of known materials such as metal and plastic on the basis of suitability for the intended use would be entirely obvious. See *in re Leshin*, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one of ordinary skill in the art to provide Minato with metal or plastic in order to use known materials suitable for the intended use.

7. Claims 45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato and Booher (4893832). The references disclose the basic inventive concept as described above, with the exception of the leaf spring being configured to have one side of the leaf spring bend in response to one wheel being moved up and allowing both side portions to bend if both wheels are moved up. Booher discloses a suspension for a vehicle having a leaf spring configured to allow either one side or both sides to bend in response to movement of the wheels (Fig. 7). It would have been obvious to one of ordinary skill in the art from the teaching of Booher to configure the leaf spring in this way in order to vary the characteristics of the suspension system as desired (column 4 lines 56-60). Furthermore, since Booher discloses a leaf spring configuration usable in

a suspension system for a vehicle that would be an art-recognized equivalent to the leaf spring as disclosed by the references, one of ordinary skill in the art would have found it obvious to substitute one for the other.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

9. In regard to the argument that the loop like members of Minato do not constitute a recess, the examiner notes that "cleft" is defined by the Merriam-Webster's online dictionary as a "hollow between ridges or protuberances", the loops of Minato can be interpreted as protuberances since they extend out from the adjacent chassis surface and form a hollow or empty space there between. < <http://m-w.com/dictionary/cleft>>

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH



EUGENE KIM
SUPERVISORY PATENT EXAMINER